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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,621	09/17/2001	Jerry G. Hodsdon	310048-561	6827

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EXAMINER

AHMAD, NASSER

ART UNIT PAPER NUMBER

1772

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/954,621

Applicant(s)

HODSDON ET AL.

Examiner

Nasser Ahmad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-29, 44-50, 52, 54-75 and 77-91 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 19-29, 65, 66 and 69-74 is/are allowed.
- 6) ☐ Claim(s) 44-50, 52, 54-64, 67-68, 75 and 77-91 is/are rejected.
- 7) ☒ Claim(s) 82 and 83 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 67-68 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 67, the phrase "the liner sheet having no cut or weakened line directly beneath the label" is found to be new matter as the specification fails to provide support for said phrase.

Rejections Maintained

2. Claims 44-46, 48, 57-58, 61-62, 75 and 77 rejected under 35 USC 102(b) as being anticipated by LaMers for reasons of record in the Office Action of July 15, 2004.
3. Claims 47, 49, 50, 52, 54-56, 59-60, 63-64 and 78 rejected under 35 USC 103(a) as being unpatentable over LaMers for reasons of record in the Office Action.

Response to Arguments

4. Applicant's arguments filed July 20, 2004 have been fully considered but they are not persuasive.

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Applicant argues that, unlike LaMers, the present invention as claimed has no cut under the label or under the cut that is outside of the label. As indicated below, the rejection of the claims over LaMers have been withdrawn in view that LaMers fails to teach the absence of cut in the liner and outside of the label. However, as for the "no cut under the label", said negative phrase is deemed to be new matter for reason as discussed below as no support could be found for the phrase in the specification as originally filed.

Regarding applicants' allegation that LaMers cut would intersect with the label and is not spaced from the label by a short section of uncut material, applicant is informed that LaMers' cut is spaced from the label by the cut surrounding the label itself. Further, the claims failed to recite that "the cut is spaced by a short section of uncut material" and cannot be read thereinto for the purpose of avoiding the applied prior art.

As for the cut being located off-center, it would have been obvious to one having ordinary skill in the art as, irrespective of the cut location, the label would still be separable from the liner because the location of the cut line being at the center or off-center are found to be functionally equivalent.

As for the phrase "adapted to be manually bent", said phrase is directed to an intended use of the product and is not deemed to be of positive limitation.

With respect to amended claim 44, the weakened line segments of LaMers are adjacent to and outside of the labels, and is spaced a distance from the labels in that the spacing is provided by the cut line surrounding the label.

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Therefore, in the absence of any evidence to the contrary, it remains the examiner's position that the claimed invention is anticipated or rendered obvious over the prior art of record discussed above.

In view of the presentation of the new claims 79-91, the following are new grounds of rejections.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 77-81 and 84-91 are rejected under 35 U.S.C. 103(a) as being unpatentable over LaMers.

LaMers relates to a label sheet construction (190) comprising a liner sheet (126), a facestock sheet (192) adhered to the liner sheet, and the facestock sheet includes a first line of spaced facestock sheet first labels (146). The facestock includes a first weakened fold line and the sheet being adapted to be bent back on the weakened fold line (figure-17). The facestock sheet include at least one non-label waste portions (192). The liner has silicone coating and a layer of adhesive is sandwiched between the facestock sheet and silicone coating (col. 3, lines 53-56). As shown in figure-16, the facestock sheet is provided with first, second and third cut lines (194) surrounding the

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labels (146) and through the facestock sheet but not through the liner sheet. A weakened line first and second segments (196) in the facestock outside of and extending from the first label to the second label or the second label to the third label. However, LaMers fails to teach that the segment line is spaced from but parallel to the centerpoint line of the labels, and that there is a second line of spaced labels. It would have been obvious to one having ordinary skill in the art to utilize LaMers' teaching of having a centerpoint line and an off-center bendable line because, irrespective of the locations, the two lines are found to be functionally equivalent in that said lines provide for the bendability of the liner and separability of the labels from the liner.

As for the LaMers' label assembly being provided with

As for the labels having a burst configuration in claims 78 and 86, it would have been an obvious modification of LaMers to provide a change of shape for aesthetic appeal.

Allowable Subject Matter

7. Claims 19-29, 65-66, 69-74 are allowed.

The prior art uncovered so far fails to teach that the weakened line segment extends through the facestock sheet but not through the liner sheet.

8. Claims 82 and 83 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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The prior art uncovered so far fails to teach or suggest that the weakened fold line does not penetrate or pass through the liner sheet.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

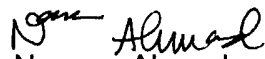
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nasser Ahmad whose telephone number is 571-272-1487. The examiner can normally be reached on 7:30 AM to 5:00 PM, and on alternate Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Nasser Ahmad
Primary Examiner
Art Unit 1772

N. Ahmad.
September 30, 2004.